In The United States District Court
For The Eastern District of Pennsylvania

PHILLIP D. ANGSTADT, APPELLANT,	:	CIVIL ACTION
v.	:	No. 99-4173
INTERNAL REVENUE SERVICE, APPELLEE.	:	

Memorandum and Order

YOHN, J. October 12, 1999

Before the court is the appeal of Phillip D. Angstadt ("appellant") from a bankruptcy court order overruling his objections to the proof of claim filed by the Internal Revenue Service ("appellee") in appellant's Chapter 13 bankruptcy proceeding.

Appellant came before the bankruptcy court on August 26, 1998, when he filed a petition for Chapter 13 bankruptcy protection, his third of the decade. As his only creditor, appellee executed and filed a proof of claim showing that appellant owed $177,398.52 in unpaid income taxes for the period from 1985 to 1997. Appellant filed objections to the proof of claim. His objections were overruled by the bankruptcy court. He appeals that ruling. Because I find that appellant's objections are premised on frivolous and erroneous readings of the law, I will affirm the order of the bankruptcy court.

FACTUAL BACKGROUND

Appellant failed to pay federal income tax from 1985 to 1997. See In re Angstadt, Bankr. No. 98-30861DAS, 1999 WL 284996, at *2 (Bankr. E.D. Pa. May 3, 1999). On June 11, 1991, appellant filed a petition for Chapter 13 bankruptcy protection. See In re Angstadt, Bankr. No. 91-22044DAS, 1994 WL 455062, at *1 (Bankr. E.D. Pa. Aug. 17, 1994). The IRS filed a proof of claim for unpaid federal income tax for the years from 1985 to 1990. See id. at *1. Appellant's objections to that proof of claim were overruled in an August 17, 1994, order of the bankruptcy court.[1] See id. at *12-13. Appellant was given leave to file an amended bankruptcy plan. See id. He failed to do so and abandoned an appeal from the order. See In re Angstadt, 1999 WL 284996 at *1. Consequently, that case was dismissed on September 21, 1994. See id. Appellant filed a second Chapter 13 petition on December 17, 1997, which was dismissed on February 4, 1998, for failure to file necessary documents. See id. Appellant filed this Chapter 13 petition on August 26, 1998. See In re Angstadt, 99-CV-4173 Doc. No. 1 (Certificate of Appeal from Order of Bankruptcy Judge) at exh. 4 (a true copy of the docket certified from the record). Appellee executed and filed a proof of claim, to which appellant filed objections on several grounds. See In re Angstadt, 1999 WL 284996 at *2-4. The objections were overruled, and appellant seeks review. See id. at *1.

STANDARD OF REVIEW

The court sits as an appellate court in hearing appeals from decisions in bankruptcy cases.

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[1] Appellee argues that the doctrine of collateral estoppel, also known as issue preclusion, bars appellant from challenging the 1994 order of the bankruptcy court as to debts for unpaid taxes from 1985 to 1990. See Brief for Appellee (Doc. No. 4) at 3-4. Regardless of the resolution of that question, appellee's claims for unpaid taxes from 1991 to 1997 require examination of appellant's legal objections. In the interest of judicial economy and because I find that appellant's objections to the claims for all years involved are frivolous, I do not reach the merits of the collateral estoppel argument.

See Insurance Co., N.A. v. Cohn (In re Cohn), 54 F.3d 1108, 1113 (3d Cir. 1995). Federal Rule of Bankruptcy Procedure 8013 explains the standard of review as follows:

> On an appeal the district court or bankruptcy appellate panel may affirm, modify, or reverse a bankruptcy judge's judgment, order, or decree or remand with instructions for further proceedings. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the bankruptcy court to judge the credibility of the witnesses.

See Fed. R. Bankr. P. 8013.

Unless I have a "definite and firm conviction that a mistake has been committed," findings of fact are not clearly erroneous. See Anderson v. Bessemer City, 470 U.S. 564, 573 (1985). I may not make my own findings of fact. See In re Cohn, 54 F.3d at 1113. In contrast, questions of law are subject to my plenary review. See id.

DISCUSSION

Distilled, appellant's brief presents four arguments on appeal. The arguments are neither new in this case nor new to the courts of the United States. I find them without merit as contrary to well-settled law.

Appellant first argues that his wages are not taxable as beyond the reach of Congress. The Sixteenth Amendment provides that "Congress shall have power to lay and collect taxes on incomes, from whatever source derived...." U.S. Const. amend. XVI. Congress defined taxable income to include gross income minus deductions. See 26 U.S.C. § 63(a) (1988 & Supp. 1998) (excepting provisions in subsection (b) for deductions not itemized). In turn, and with limitations not relevant here, gross income includes "all income from whatever source derived, including (but not limited) to the following items: 1) Compensation for services, including fees, commissions, fringe benefits, and similar items; 2) Gross income derived from business...." 26

U.S.C. § 61(a) (1988 & Supp. 1998). The Supreme Court has said that Congress used its taxing power to the fullest extent permitted by the Constitution. See Commissioner v. Glenshaw Glass Co., 348 U.S. 426, 429 (1955). Despite that clear statement, appellant suggests that before an "item" of income may be considered, the particular "source" of the "item" must be identified. See Brief for Appellant (Doc. No. 3) at 7-11, 13-17, 18-22. He is wrong. By the terms of both the Sixteenth Amendment and § 61(a), "source" is not to be a limitation on taxable income. Rather, income is to be taxed regardless of its source. The Supreme Court "has given a liberal construction to this broad phraseology in recognition of the intention of Congress to tax all gains except those specifically exempted." See Commissioner v. Glenshaw Glass Co., 348 U.S. at 429-30. Appellant suggests a reading contrary to Supreme Court dictates by which both appellant and I are bound. Moreover, the list of items to which appellant looks is illustrative, not exhaustive or exclusive. It is so by its terms. Appellant's income is subject to taxation.

Appellant's second argument is that his compensation in exchange for labor is property, not income. See Brief for Appellant at 12-13. Again, he is wrong. The Third Circuit unequivocally has stated that "wages are income within the meaning of the Sixteenth Amendment." United States v. Connor, 898 F.2d 942, 944 (3d Cir. 1990). The Third Circuit then warned that "[u]nless subsequent Supreme Court decisions throw any doubt on this conclusion, we will view arguments to the contrary as frivolous, which may subject the party asserting them to appropriate sanctions." Id. Such authority is neither cited nor found, and appellant's argument will be dismissed as frivolous. Wages are income.

Appellant's third argument is that there is no statutory authority to tax citizens of the "Pennsylvania State." See Brief for Appellant at 17. This is not true. "The Fourteenth

Amendment established simultaneous state and federal citizenship, thereby securing the political jurisdiction of the federal government over the residents of the individual states." See In re Weatherly, 169 B.R. 555, 559 (Bankr. E.D. Pa. 1994); In re Angstadt, 1994 WL 455062, at *6. Consequently, appellant is "plainly a citizen of both Pennsylvania and the United States and, as such, subject to the federal income tax." In re Weatherly, 169 B.R. at 559.

Appellant argues finally that appellee failed to substantiate its claim. See Brief for Appellant at 23. Appellant does not challenge the IRS's proof but instead demands IRS charts, programs, and policies. See Brief for Appellant at 22-24. Without more, these demands are not proper. Although a claimant always bears the burden of persuasion in a bankruptcy proceeding, see In re Allegheny Int'l, Inc., 654 F.2d 167, 174 (3d Cir. 1992), a claimant demonstrates a prima facie claim by presenting "facts sufficient to support a legal liability to the claimant." See id. at 173. This was done. See In re Angstadt, 1999 WL 284996 at *2 & *4. The objecting party then must present evidence that a reaonsble trier of fact could find sufficient to refute an element of the proof of claim. See In re Allegheny, 654 F.2d at 173-74; In re Angstadt, 1994 WL 455062, at *10. Appellant's objection here is doomed because "he presented no evidence tending to negate any aspect of the IRS' claim. Rather, he presented no evidence at all...." See In re Angstadt, 1999 WL 284996, at *4. Nor does appellant offer evidence on appeal. Appellant's demands that the IRS provide him with policy and program information and his contention that his due process rights were violated are both untenable. I find no reason to conclude that the decision of the bankruptcy judge was incorrect, much less clearly erroneous, and therefore I will affirm the order of the bankruptcy court.

CONCLUSION

Courts have looked unfavorably on reiterations of rejected tax objections founded in frivolous or erroneous readings of law. See, e.g., Stouch v. Williams Hospitality Corp., 22 F. Supp. 2d 431, 434 (E.D. Pa. 1998) (dismissing claims as "'tax protester rhetoric and legalistic gibberish'") (citation omitted); United States v. Weatherly, 12 F. Supp. 2d 469, 469 n.1 (E.D. Pa. 1998) (listing tax protest arguments "rejected by the courts"). Appellant's arguments are of that ilk. I accept, without finding, appellant's good faith conviction that he should not pay federal income tax. His conviction, however, will not countenance conduct contrary to clear statements of law. I will affirm the order of the bankruptcy court.

An appropriate order follows.

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For The Eastern District of Pennsylvania

PHILLIP D. ANGSTADT, APPELLANT, v. INTERNAL REVENUE SERVICE, APPELLEE.	: : : : : : : : :	CIVIL ACTION No. 99-4173

Order

And now, this day of October, 1999, upon consideration of the Order & Memorandum of the United States Bankruptcy Court for the Eastern District of Pennsylvania (In re Phillip Angstadt, No. 98-30861DAS, 1999 WL 284996 (Bankr. E.D. Pa. May 3, 1999)), appellant's brief objecting thereto (Doc. No. 3), and appellee's brief in response to appellant's objections (Doc. No. 4), it is HEREBY ORDERED AND DECREED that the order of the bankruptcy court is AFFIRMED.

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William H. Yohn, Judge.